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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Adan Gonzalez,

10 Plaintiff,

11 v.

12 Lance Hetmer, et al.,

13 Defendants.
14

No. CV-22-01672-PHX-JJT (ESW)

ORDER

15 Pending before the Court are Plaintiff's third and fourth Motions to Appoint
16 Counsel (Docs. 248, 250), Plaintiff's "Settlement Conference" (Doc. 251), Plaintiff's
17 "Motion to Grant Plaintiff's Motion" (Doc. 252), and Defendants' "Motion to Strike and
18 Seal Plaintiff's 'Settlement Conference' Filing" (Doc. 253).

19 As the Court previously explained to Plaintiff (Docs. 134, 147), there is no
20 constitutional right to the appointment of counsel in a civil case. *See Johnson v. U.S. Dep't*
21 *of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991); *Ivey v. Bd of Regents of the Univ. of Alaska*,
22 673 F.2d 266, 269 (9th Cir. 1982). In pro se and in forma pauperis proceedings, district
23 courts do not have the authority "to make coercive appointments of counsel." *Mallard v.*
24 *United States District Court*, 490 U.S. 296, 310 (1989). District courts, however, do have
25 the discretion to request that an attorney represent an indigent civil litigant upon a showing
26 of "exceptional circumstances." 28 U.S.C. § 1915(e)(1); *Agyeman v. Corrections Corp.*
27 *Of America*, 390 F.3d 1101, 1103 (9th Cir. 2004); *Terrell v. Brewer*, 935 F.2d 1015, 1017
28 (9th Cir. 1991). A determination with respect to exceptional circumstances requires an

1 evaluation of the likelihood of success on the merits as well as the ability of Plaintiff to
2 articulate his claims pro se in light of the complexity of the legal issue involved. *Id.*
3 “Neither of these factors is dispositive and both must be viewed together before reaching
4 a decision.” *Id.* (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

5 Having considered both elements, the Court does not find that exceptional
6 circumstances are present that would require the appointment of counsel in this case at this
7 time. Plaintiff remains in a position no different than many pro se prisoner litigants.
8 Plaintiff’s Motions for the appointment of counsel (Docs. 248, 250) will be denied.

9 In his “Settlement Conference” document (Doc. 251), Plaintiff sets forth
10 confidential information that is only properly before the settlement Magistrate Judge in
11 preparation for the settlement conference scheduled for May 27, 2025 at 9:30 a.m. by video
12 conference (Docs. 246, 247). Therefore, the Court will seal and strike Plaintiff’s
13 “Settlement Conference” document (Doc. 251) without prejudice to the Plaintiff to raise
14 his concerns and position as set forth in his document at the settlement conference itself.


15 For the reasons set forth herein,

16 IT IS ORDERED denying Plaintiff’s Motions for Appointment of Counsel (Docs.
17 248, 250).

18 IT IS FURTHER ORDERED granting Defendants’ Motion to Strike and Seal
19 Plaintiff’s ‘Settlement Conference’ Filing (Doc. 253). The Clerk of Court is instructed to
20 seal and strike Plaintiff’s “Settlement Conference” document (Doc. 251).

21 IT IS FURTHER ORDERED denying as moot Plaintiff’s “Motion to Grant
22 Plaintiff’s Motion” (Doc. 252) as a settlement conference has been set and the Court has
23 ruled on all of Plaintiff’s motions (Docs. 248, 250, 251).

24 Dated this 5th day of May, 2025.

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26 
27 Honorable Eileen S. Willett
28 United States Magistrate Judge